

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

DePuy Mitek, Inc.  
a Massachusetts Corporation

Plaintiff,

V.

Civil Action No. 04-12457 PBS

Arthrex, Inc.  
a Delaware Corporation, *et al.*

Defendants.

**DEFENDANTS ARTHREX, INC.'S AND PEARSALLS LTD.'S MOTION *IN LIMINE***  
**TO PRECLUDE DEPUY MITEK FROM ARGUING AT TRIAL THAT COATING'S**  
**EFFECT ON FIBERWIRE IS MINIMAL COMPARED TO THE EFFECT OF**  
**COMBINING TWO DIFFERENT MATERIALS**

Pursuant to the Pretrial Order dated June 19, 2007, defendants Arthrex, Inc. and Pearsalls, Ltd. (together, “Defendants”) hereby move the Court *in limine* for an Order precluding DePuy Mitek from arguing at trial that coating’s effect on FiberWire suture is minimal in comparison to the effect of combining two different materials. DePuy Mitek has no evidence to support this new argument. As a substitute for evidence, Depuy Mitek attributes statements and opinions to its purported suture coating expert, Dr. Brookstein, *that he never made*. Further, even if DePuy Mitek did have evidence to support its new argument, it is way too late in the game for DePuy Mitek to introduce any new evidence. If DePuy Mitek is permitted to introduce new evidence at this point, it would greatly prejudice Defendants since their experts have not had an opportunity to review and comment on it. The reasons for Defendants’ motion are included in their Memorandum in support of this motion being filed concurrently herewith.

Dated: July 13, 2007

Respectfully submitted,

By: /s/Charles W. Saber

Charles W. Saber

Stephen A. Soffen

Salvatore P. Tamburo

DICKSTEIN SHAPIRO LLP

1825 Eye Street, N.W.

Washington, D.C. 20006-5403

Telephone: (202) 420-3116

Facsimile: (202) 420-2201

Christopher Weld, Jr. (BBO # 522230)

Raymond P. Ausrotas (BBO # 640315)

TODD & WELD LLP

28 State Street, 31st Floor

Boston, MA 02109

Telephone: (617) 720-2626

Facsimile: (617) 227-5777

Counsel for Defendants

Arthrex, Inc. and Pearsalls Ltd.